

House Study Bill 209 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES BILL BY
CHAIRPERSON RAYHONS)

A BILL FOR

1 An Act relating to the prevention and control of aquatic
2 invasive species in the state and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 456A.37, Code 2013, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 **456A.37 Aquatic invasive species — prevention and control.**

5 1. *Definitions.* As used in this section:

6 a. "*Aquatic invasive species*" means nonnative wildlife or
7 plant species that have been determined by the department to
8 pose a significant threat to the aquatic resources or water
9 infrastructure of the state.

10 b. "*Aquatic plant*" means a submergent, emergent, floating,
11 or floating-leaved plant, including algae, and includes any
12 part of such a plant.

13 c. "*Bait*" means the same as defined in section 481A.1.

14 d. "*Water-related equipment*" means a motor vehicle,
15 boat, watercraft, dock, boat lift, raft, vessel, trailer,
16 tool, implement, device, or any other associated equipment
17 or container, including but not limited to portable bait
18 containers, live wells, ballast tanks, bilge areas, and
19 water-hauling equipment that is capable of containing or
20 transporting aquatic invasive species, aquatic plants, or
21 water.

22 2. *Rulemaking.* The commission shall adopt rules pursuant to
23 chapter 17A for the implementation and administration of this
24 section. The rules shall do all of the following:

25 a. Restrict the introduction, propagation, use, possession,
26 and spread of aquatic invasive species.

27 b. Identify waters of the state with infestations of aquatic
28 invasive species. The commission shall require that such
29 waters be posted as infested.

30 c. If the commission determines that an additional species
31 should be defined as an "*aquatic invasive species*", the species
32 shall be defined by the commission by rule as an "*aquatic*
33 *invasive species*".

34 3. *Prohibitions.*

35 a. A person shall not transport on a public road, or place

1 or attempt to place into waters of the state, any water-related
2 equipment that has an aquatic invasive species or aquatic plant
3 attached to or within the water-related equipment except as
4 follows:

5 (1) When authorized by a written permit issued by the
6 director upon a finding that the person is unable to comply
7 with the requirements of this lettered paragraph "a", is
8 substantially impacted by the prohibitions of this lettered
9 paragraph "a", and is affording adequate protection of the
10 aquatic resources or water infrastructure of the state by an
11 alternative means.

12 (2) When the department, or other governmental entity
13 approved by the director, is undertaking management activities
14 that would constitute prohibited activities under this lettered
15 paragraph "a" but are necessary to manage the aquatic resources
16 or water infrastructure of the state, including but not limited
17 to aquatic invasive species control, and sufficient mitigation
18 efforts are undertaken to avoid or minimize, to the greatest
19 extent possible, exposure of the waters of the state to an
20 aquatic invasive species.

21 (3) When disposing of or engaging in a control activity of
22 an aquatic invasive species and exposure to other waters of the
23 state is minimized.

24 (4) When transporting commercial or municipal aquatic plant
25 harvesting equipment to a suitable location away from any
26 waters of the state, for purposes of cleaning the equipment of
27 any remaining aquatic plants or wildlife.

28 (5) When water-related equipment is legally purchased or
29 traded by or from a commercial source.

30 (6) For purposes of constructing or transporting a shooting
31 or observation blind, provided that there are no aquatic
32 invasive species present on or in the blind, and the aquatic
33 plants used on or in the blind are emergent, cut above the
34 waterline, and contain no propagules such as seed heads, roots,
35 or rhizomes.

1 (7) For purposes of submitting a sample to the department or
2 to another entity as directed by the department, provided that
3 the sample is in a sealed container. Any test results of such
4 samples shall be reported to the department.

5 (8) When engaged in emergency response activities, provided
6 that the person engaged in such activities is affiliated with
7 a law enforcement agency or an agency with emergency response
8 authority.

9 (9) When otherwise permitted under a disaster declaration
10 issued consistent with chapter 29C.

11 **b.** A person shall drain all water from water-related
12 equipment when leaving the waters of the state and before
13 transporting the water-related equipment off a water access
14 area or riparian property. Drain plugs, bailers, valves,
15 or other devices used to control the drainage of water from
16 ballast tanks, bilges, and live wells shall be removed or
17 opened while transporting water-related equipment except as
18 follows:

19 (1) When authorized by a written permit issued by the
20 director upon a finding that the person is unable to comply
21 with the requirements of this lettered paragraph "b", is
22 substantially impacted by the prohibitions of this lettered
23 paragraph "b", and is affording adequate protection of the
24 aquatic resources or water infrastructure of the state by an
25 alternative means.

26 (2) When the department, or other governmental entity
27 approved by the director, is undertaking management activities
28 that would constitute prohibited activities under this lettered
29 paragraph "b" but are necessary to manage the aquatic resources
30 or water infrastructure of the state, including but not limited
31 to aquatic invasive species control, and sufficient mitigation
32 efforts are undertaken to avoid or minimize, to the greatest
33 extent possible, exposure of the waters of the state to an
34 aquatic invasive species.

35 (3) When water-related equipment constitutes a marine

1 sanitary system, a closed engine cooling system, or is a tank
2 or container of potable drinking water or other beverage
3 intended for human consumption.

4 (4) When engaged in emergency response activities, provided
5 that the person engaged in such activities is affiliated with
6 a law enforcement agency or an agency with emergency response
7 authority.

8 (5) When otherwise permitted under a disaster declaration
9 issued consistent with chapter 29C.

10 c. A person who violates this subsection is subject to a
11 scheduled fine pursuant to section 805.8B, subsection 5.

12 4. *Inspections.* Persons operating and transporting
13 water-related equipment shall inspect the equipment for
14 aquatic invasive species when the equipment is removed from, or
15 before entering waters of the state. If an aquatic invasive
16 species is present on or within the water-related equipment,
17 the aquatic invasive species shall be removed immediately.
18 Any water-related equipment is subject to inspection by a
19 representative of the department. A representative of the
20 department may prohibit a person from placing or operating
21 water-related equipment in waters of the state if the person
22 refuses to allow an inspection of the water-related equipment
23 or refuses to remove and dispose of aquatic invasive species,
24 aquatic plants, or water on or within the water-related
25 equipment.

26 Sec. 2. Section 805.8B, subsection 5, Code 2013, is amended
27 to read as follows:

28 5. *Aquatic invasive species violations.* For violations of
29 section 456A.37, subsection 5 3, the scheduled fine is ~~five~~
30 ~~hundred dollars.~~ as follows:

31 a. For violations of section 456A.37, subsection 3,
32 paragraph "a", the scheduled fine is five hundred dollars.

33 b. For violations of section 456A.37, subsection 3,
34 paragraph "b", the scheduled fine is seventy-five dollars.

35 c. For repeat violations of section 456A.37, subsection 3,

1 paragraph "a" or "b" within the same twelve-month period, the
2 scheduled fine shall include an additional fine of five hundred
3 dollars for each violation.

4 EXPLANATION

5 This bill relates to the prevention and control of aquatic
6 invasive species in the waters of the state and provides
7 penalties.

8 Code section 456A.37, relating to the same subject,
9 is stricken and rewritten with a new definition for what
10 constitutes an "aquatic invasive species" and new definitions
11 of "aquatic plant", "bait", and "water-related equipment".
12 The natural resource commission is directed to adopt rules to
13 implement and administer the bill. The rules are required to
14 restrict the introduction, propagation, use, possession, and
15 spread of aquatic invasive species; identify waters of the
16 state with infestations of aquatic invasive species and post
17 such waters as infested; and define additional aquatic species
18 as invasive if necessary.

19 The bill prohibits a person from transporting on a public
20 road, or placing or attempting to place into waters of the
21 state, any water-related equipment that has an aquatic
22 invasive species or aquatic plant attached to or within the
23 water-related equipment unless specified exceptions apply. A
24 violation of these provisions is punishable by a scheduled
25 fine of \$500 plus an additional fine of \$500 for each repeat
26 violation within the same 12-month period.

27 The bill requires a person leaving the waters of the
28 state to drain all water from water-related equipment before
29 transporting the equipment off a water access area or riparian
30 property. Specified equipment used to control drainage of
31 water from water-related equipment must be removed or opened
32 while being transported unless specified exceptions apply. A
33 violation of these provisions is punishable by a scheduled
34 fine of \$75 plus an additional fine of \$500 for each repeat
35 violation within the same 12-month period.

1 Persons who operate and transport water-related equipment
2 are required to inspect the equipment for aquatic invasive
3 species when the equipment is removed from, or before entering,
4 waters of the state. Any water-related equipment is also
5 subject to inspection by a representative of the department
6 of natural resources. A representative of the department may
7 prohibit a person from placing or operating water-related
8 equipment in the waters of the state if the person refuses to
9 allow an inspection of the equipment or refuses to remove and
10 dispose of aquatic invasive species, aquatic plants, or water
11 on or within the equipment.